

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ED FOSTER,

Petitioner,

v.

THOMAS WINN,

Respondent.

Case No. 15-12265

Honorable Laurie J. Michelson

Magistrate Judge Michael J. Hluchaniuk

**OPINION AND ORDER
GRANTING PETITIONER'S REQUEST TO CONTINUE STAY**

Ed Foster filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254 in 2015. (R. 1.) In 2017, the Court granted Foster's request for a stay to allow him to exhaust state court remedies with respect to certain claims. (R. 14.) The Court imposed certain conditions under which Foster needed to proceed, including that he file a motion for relief from judgment in the trial court within sixty days of the stay order.

Foster filed a motion for relief from judgment in the trial court within sixty days, but the motion failed to comply with portions of Michigan Court Rule 6.502(C) and was returned. (R. 15.) The Circuit Court provided that Foster could re-submit a modified motion should he wish to do so. Foster asks this Court for permission to re-submit his motion. He does not need this Court's permission to file a pleading in state court, so the Court construes the letter as a request to continue the stay while he re-submits his motion. The Court finds that the request is made in good faith and is not an attempt to unnecessarily delay these proceedings. The Court grants the request. Foster must re-submit a motion for relief from judgment in the state court within sixty days of entry of this order. As the prior order stated, Foster may move to amend his petition to add the newly-

exhausted claims within sixty days after the conclusion of state-court post-conviction proceedings.

(R. 14.)

SO ORDERED.

Dated: February 28, 2018

s/Laurie J. Michelson
LAURIE J. MICHELSON
U.S. DISTRICT JUDGE

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on February 28, 2018.

s/Keisha Jackson
Case Manager